

1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF WASHINGTON AT SEATTLE
3

4 MICROSOFT CORPORATION,)
5 Plaintiff,) C10-01823-JLR
6 v.) September 4, 2013
7 MOTOROLA, INC., et al,) Verdict
8 Defendant.)
9)

10
11 BEFORE THE HONORABLE JAMES L. ROBART
12 UNITED STATES DISTRICT JUDGE
13

14 APPEARANCES:

15 For the Plaintiff: Arthur Harrigan, Christopher
16 Wion, David Pritikin, Richard
17 Cederoth, Andy Culbert,
Nathaniel Love and Ellen
Robbins

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19
20 For the Defendants: Ralph Palumbo, William Price,
21 Brian Cannon, Kathleen Sullivan
22 and Andrea Roberts
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1 THE COURT: Ladies and gentlemen, the clerk has
2 indicated that the jury has reached a verdict. Are there
3 any matters the parties wish to take up before we receive
4 the verdict?

5 MR. HARRIGAN: No, your Honor.

6 THE COURT: All right. Please bring the jury in.
7 (At this time the jury entered the courtroom.)

8 THE COURT: The clerk has advised me that you have
9 reached a verdict in this matter.

10 Who speaks for the jury? All right. Has the jury
11 reached a unanimous verdict?

12 FOREPERSON: Yes, we have.

13 THE COURT: Would you please hand it down to the
14 clerk?

15 FOREPERSON: Certainly.

16 THE COURT: In the matter of Microsoft Corporation
17 versus Motorola, Inc., Motorola Mobility and General
18 Instrument Corporation, case number C10-1823, verdict
19 form.

20 Ladies and gentlemen, I am going to read the verdict.
21 I am going to ask that you to listen carefully, even
22 though it is your verdict, for the reason that the parties
23 have the right to poll the jury; meaning, the clerk will
24 say: Is this your verdict and the verdict of the jury?
25 And if you haven't listened to me one final time, you

1 won't be able to answer that.

2 "We the jury unanimously find as follows:"

3 "Do you find that Microsoft has proved by a
4 preponderance of the evidence that Motorola breached its
5 contractual commitment to the IEEE?" "Yes."

6 "Do you find that Microsoft has proved by a
7 preponderance of the evidence that Motorola breached its
8 contractual commitment to the ITU?" "Yes."

9 "What are the damages, if any, attributable to the
10 distribution center relocation costs incurred by Microsoft
11 as a foreseeable result of MMI and General Instrument
12 Corporation having breached its contractual commitment to
13 the ITU?" Answer: "\$11,492,686."

14 Question 4. "Attorneys fees and litigation costs may
15 only be awarded as damages if you find that Motorola's
16 lawsuits seeking injunctive relief, apart from Motorola's
17 general course of conduct, violated Motorola's duty of
18 good faith and fair dealing." Question A: "Did you find
19 that Motorola's conduct in seeking injunctive relief,
20 apart from Motorola's general course of conduct, violated
21 Motorola's duty of good faith and fair dealing with
22 respect to Motorola's contractual commitment to the IEEE?"
23 Answer: "Yes."

24 "Do you find that Motorola's conduct in seeking
25 injunctive relief, apart from Motorola's general course of

1 conduct, violated Motorola's duty of good faith and fair
2 dealing with respect to Motorola's contractual commitment
3 to the ITU?" Answer: "Yes."

4 "What are the damages, if any, attributable to
5 attorneys fees and litigation costs incurred by Microsoft
6 as a foreseeable result of Motorola having breached its
7 actual commitments?" Answer: "\$3,031,720."

8 Question 5 has a line drawn through it, indicating no
9 answer. Dated 4 September 2013. It is signed by the
10 presiding juror.

11 Does Microsoft wish to poll the jury?

12 MR. HARRIGAN: No, your Honor.

13 THE COURT: Mr. Price?

14 MR. PRICE: Yes, your Honor.

15 THE COURT: The clerk will please poll the jury.

16 THE CLERK: Juror 1, is this your individual
17 verdict and the verdict of the jury?

18 JUROR 1: It is.

19 THE CLERK: Juror 2, is this your individual
20 verdict and the verdict of the jury?

21 JUROR 2: Yes.

22 THE CLERK: Juror 3, is this your individual
23 verdict and the verdict of the jury?

24 JUROR 3: Yes.

25 THE CLERK: Juror 4, is this your individual

1 verdict and the verdict of the jury?

2 JUROR 4: Yes.

3 THE CLERK: Juror 5, is this your individual
4 verdict and the verdict of the jury?

5 JUROR 5: Yes.

6 THE CLERK: Juror 6, is this your individual
7 verdict and the verdict of the jury?

8 THE COURT: You have to answer audibly.

9 FOREPERSON 6: Yes.

10 THE CLERK: Juror 7, is this your individual
11 verdict and the verdict of the jury?

12 FOREPERSON 7: Yes.

13 THE CLERK: Juror 8, is this your individual
14 verdict and the verdict of the jury?

15 JUROR 8: Yes.

16 THE COURT: The polling having determined that the
17 verdict is unanimous, I accept the verdict and will give
18 it to the clerk for filing at this time.

19 Ladies and gentlemen, you are now released from all of
20 those things that I told you over and over you couldn't
21 do. If someone wants to talk to you about the case, it is
22 up to you to decide if you wish to do so. The lawyers,
23 under the local rules of this district, are not permitted
24 to contact you. And, other than that, feel free to
25 investigate to your heart's content, read those news

1 stories, whatever. There have been some, and know that
2 has happened.

3 I am going to come back to the jury room. I would
4 like to thank you in person. I also recognize that it is
5 five minutes to 5:00, and some of you may want to avoid
6 the traffic, or get into the traffic and get out of here.
7 If you are not there, I will certainly understand. But,
8 otherwise, I will be back in five minutes or so.

9 Ladies and gentlemen, please rise for the jury.

10 (At this time the jury left courtroom.)

11 THE COURT: Please be seated. Ladies and
12 gentlemen, in their verdict form, as opposed to simply
13 checking "yes" they wrote "8" and "0" under "no" on each
14 of the questions. As opposed to simply checking one or
15 the other, they disclosed their vote count. It seems to
16 me that is not of any consequence.

17 Other than that, are there any matters which Microsoft
18 would like to take up at this time?

19 MR. HARRIGAN: No, your Honor.

20 THE COURT: Mr. Price?

21 MR. PRICE: No, your Honor.

22 THE COURT: Counsel, if you want to file motions
23 and you need additional time to do so, please contact me.
24 I would hope all of you will take a couple of days off at
25 this point. I believe I have the authority to extend some

1 of those deadlines. Don't rush your stuff in. Take your
2 time instead.

3 It has been a pleasure having you in the courtroom. I
4 suspect I will get to see some more of you, because, as I
5 indicated, I would like to take up the question of your
6 seeking appellate review of my decisions in Phase I and
7 Phase II, and see if we can't work out how that is going
8 to work.

9 We will be in recess. Thank you, counsel.

10 (Adjourned.)
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CERTIFICATE

We, Barry L. Fanning & Debbie Zurn, Official Court Reporters, do hereby certify that the foregoing transcript is true and correct.

S/Barry L. Fanning
S/Debbie Zurn

Barry L. Fanning